

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-225-C - ORDER NO. 97-21
JANUARY 8, 1997

IN RE: Application of Discount Network Services,)
Inc. for a Certificate of Public) ORDER
Convenience and Necessity to Operate as) APPROVING
a Reseller of Interexchange Telecommuni-) CERTIFICATE
cations Services in South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Discount Network Services, Inc. ("DNS" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1995) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed DNS to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of DNS's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. DNS complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or letters of protest were received concerning DNS's

Application.

A hearing was commenced on December 18, 1996, at 2:30 p.m., in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. DNS was represented by Frank R. Ellerbe, III, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Gerald Wnuk, Vice President of Sales for DNS, appeared and offered testimony in support of DNS's Application. Mr. Wnuk stated that DNS is a Michigan corporation which is registered to do business in South Carolina as a foreign corporation. According to Mr. Wnuk, DNS proposes to offer long distance services using resold transmission services of carriers certificated to carry traffic in South Carolina. Mr. Wnuk explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. The record reveals the Company's services, operations and marketing procedures.

Mr. Wnuk also explained that DNS possesses the technical, financial and managerial abilities to provide its services in South Carolina. Mr. Wnuk further testified that the Company would make certain changes to its proposed tariff to comply with Commission guidelines and prior Orders.

Mr. Wnuk admitted during the hearing that DNS had completed intrastate long distance calls and received revenues for those calls in South Carolina, but he stated that he did not know the total revenues collected for those intrastate calls. The record also reveals that DNS was contacted by the Commission's Consumer Services Department about complaints of "slamming" by DNS and that

DNS continued to complete and bill for intrastate calls after being notified of intrastate activity prior to receiving authority to provide intrastate services. At the conclusion of the hearing, counsel for DNS requested that the Commission waive any refund of the revenues collected for the intrastate calls or in the alternative to require a refund of only the difference between the charges collected and the underlying carriers' charges.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. DNS is incorporated under the laws of the State of Michigan and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. DNS operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. DNS has the experience, capability, and financial resources to provide the services as described in its Application.

4. DNS has previously carried intrastate long distance calls in South Carolina prior to receiving authority to provide resold intrastate telecommunications services within the State of South Carolina.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to DNS to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for DNS for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. DNS shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. DNS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No.

84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1995).

4. DNS shall file its revised maximum tariff and an accompanying price list within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. DNS is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. DNS shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If DNS changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, DNS shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. DNS shall file surveillance reports on a calendar or

fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

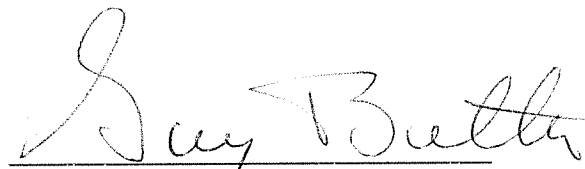
10. The Commission concludes that DNS's request for waiver of refund should be denied. The Commission is concerned that DNS continued to complete and bill for intrastate calls after being informed of complaints by the Commission's Consumer Services Department. The Company was notified that it was completing intrastate calls when the Commission's Consumer Services Department notified the Company of the "slamming" complaints. The Company did not have authority to operate as a reseller of intrastate services, and other than to credit the customers who complained, the Company made no adjustment to prevent the completion of intrastate calls. Therefore, the Commission orders the Company to refund all revenues collected for intrastate calls completed between the date the Company was notified of the first complaint (September 3, 1996) through the date the Commission ruled on this matter (December 24, 1996). DNS shall provide the Staff with an accounting of the amounts of the refunds to be made for the above referenced time frame and shall provide verification that the refunds are made.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to

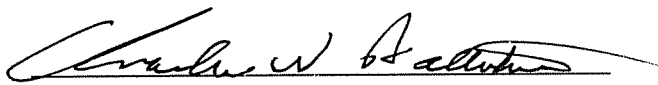
be contacted in connection with general management duties as well as emergencies which occur during non-office hours. DNS shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR
ENDING _____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT
(SEE #3 ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE